

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**JORDAN ZITOUN and  
ERIN ZITOUN,**

***Plaintiffs,***

**v.**

**ALLY BANK and CENLAR FSB,  
as Loan Servicer,**

***Defendants.***

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**Civil Action No. 3:22-cv-2192**

**DEFENDANTS' NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§1332(a) and 1441, Defendants Ally Bank (“Ally”) and Cenlar FSB (“Cenlar”) (collectively “Defendants”) remove this action from the 191st Judicial District Court of Dallas County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division, and in support thereof would show unto the Court the following:

**I. STATE COURT ACTION**

1. On September 1, 2022, Plaintiffs Jordan Zitoun and Erin Zitoun (“Plaintiffs”) filed their Original Petition, Application for Temporary Restraining Order and Injunctive Relief (the “Complaint”), *Jordan Zitoun and Erin Zitoun v. Ally Bank and Cenlar FSB, as Loan Servicer*; Cause No. DC-22-11200, in the 191st Judicial District Court of Dallas County, Texas.

2. Pursuant to 28 U.S.C. §1446(d), this Notice of Removal will be filed with the 191st Judicial District Court of Dallas County, Texas, and a copy of this Notice of Removal will also be served on all parties.

3. In the State Court Action, Plaintiffs allege causes of action centered around the foreclosure of the real property commonly known as 2808 Maple Springs Blvd., Dallas, Texas

75235 (the “Property”). Plaintiffs seek injunctive relief and damages for breach of contract and wrongful foreclosure.

4. Pursuant to 28 U.S.C. §1446(a), copies of all process, pleadings, orders, and other papers filed in the 191st Judicial District Court of Dallas County, Texas and obtained by Defendants are attached hereto. In support of this removal and as required by Local Rule 81.1, please find attached as follows:

**Exhibit A:** Index of Matters Being Filed;

**Exhibit B:** Civil Cover Sheet;

**Exhibit C:** Supplement to Civil Cover Sheet;

**Exhibit D:** State Court Docket Sheet;

**Exhibit E:** State Court File;

**Exhibit F:** Disclosure Statement and Certificate of Interested Parties.

## **II. TIMELINE FOR NOTICE OF REMOVAL**

5. Defendant Ally was served in this action on September 8, 2022. Defendant Cenlar was served in this action on September 9, 2022. Less than thirty (30) days have passed since Defendants received notice of this lawsuit, and thus, removal is timely. 28 U.S.C. §1446(b)(1).

## **III. BASIS FOR REMOVAL: DIVERSITY JURISDICTION**

6. The Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332(a)(1) because there is complete diversity of the Parties and the amount in controversy exceeds \$75,000.

### **a. Diversity of Citizenship**

7. Removal in this case is proper because this Court has diversity jurisdiction under 28 U.S.C. §1332(a)(1). Where there is complete diversity among parties and the amount in controversy exceeds \$75,000.00, an action may be removed to federal court.

8. This controversy is entirely between citizens of different states as required for diversity jurisdiction under 28 U.S.C. §1332(a)(1), in that every defendant is diverse from Plaintiffs.

9. Pursuant to Plaintiffs' Complaint, Plaintiffs are citizens of Dallas, Dallas County, Texas.

10. Defendant Ally Bank is an indirect wholly-owned subsidiary of Ally Financial Inc. Ally Financial Inc. was incorporated in Delaware, and has its principal place of business in Detroit, Michigan. *See* 28 U.S.C. §1348; *Wachovia Bank v. Schmidt*, 546 U.S. 303, 318 (2006). For purposes of diversity, a corporation is a citizen of the state where it is incorporated and the state where it has its principal place of business. *See* 28 U.S.C. §1332(c)(1); *Lincoln Prop. Co. v. Roche*, 546 U.S. 81, 88-89 (2005). Thus, Ally Bank is a citizen of both Delaware and Michigan for purposes of diversity.

11. Defendant Cenlar FSB is a federal savings bank and has its corporate headquarters and its principal place of business in the state of New Jersey. Cenlar's citizenship is determined by the location of its main offices as set forth in their respective articles of association. *See* 28 U.S.C. §1348; *Wachovia Bank v. Schmidt*, 546 U.S. 303, 318 (2006). Cenlar's main office, as designated in its registration, is located in New Jersey. Therefore, Cenlar is a citizen of New Jersey for diversity purposes.

12. Plaintiffs are citizens of the State of Texas, Defendant Ally is a citizen of Delaware and Michigan, and Defendant Cenlar is a citizen of New Jersey, accordingly this lawsuit is between citizens of different states and complete diversity exists among the parties. *See* 28 U.S.C. §1332(a)(1).

**b. Amount in Controversy Exceeds \$75,000.**

13. Plaintiffs' Complaint specifies that the amount in controversy, is over \$200,000 but less than \$1,000,000. *See* Plaintiffs' Complaint at P. 3. Therefore, the amount in controversy meets the requirement for diversity under 28 U.S.C. §1332(a)(1).

#### IV. VENUE

14. Venue for this Removal is proper in the United States District Court for the Northern District of Texas, Dallas Division, because this district and division includes Dallas County, Texas, which is the location of the pending state court action. 28 U.S.C. §1441(a); 28 U.S.C. §124(d)(1).

#### V. CONCLUSION

WHEREFORE Defendants Ally Bank and Cenlar FSB remove this action from the 191st Judicial District Court of Dallas County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division, so that this Court may assume jurisdiction over the cause as provided by law.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

Pursuant to Federal Rules of Civil Procedure, the foregoing has been filed with the Court via CM/ECF and I certify that a true and correct copy of the foregoing has been sent on this the 3rd day of October 2022 to all parties of record.

***VIA ECF:***

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